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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE OF THE 21st MEETING (FIRST PART)*

Held at the Palais des Nations, Geneva,
on Tuesday, 20 August 1991, at 3.00 p.m.

Chairman: Mr. JOINET
later: Mr. HELLER

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* The summary record of the second part of the meeting appears as document E/CN.4/Sub.2/1991/SR.21/Add.1.

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The meeting was called to order at 3.20 p.m.

PROMOTION, PROTECTION AND RESTORATION OF HUMAN RIGHTS AT NATIONAL, REGIONAL AND INTERNATIONAL LEVELS:

(a) PREVENTION OF DISCRIMINATION AND PROTECTION OF CHILDREN: HUMAN RIGHTS AND YOUTH

(b) PREVENTION OF DISCRIMINATION AND PROTECTION OF WOMEN (agenda item 17) (continued)

(E/CN.4/Sub.2/1991/42; E/CN.4/Sub.2/1991/NGO/1; E/CN.4/Sub.2/1991/NGO/5; E/CN.4/Sub.2/1991/NGO/23; E/CN.4/Sub.2/1990/45 and Corr.1; A/46/38 and E/1991/28)

1. Mr. SACHAR pointed out, with regard to the figure of 55 million young people who had died of hunger in the past 10 years quoted by Mr. Mazilu in paragraph 37 of his report (E/CN.4/Sub.2/1991/42), that the dissatisfaction of young people in developing countries who were poor and went hungry was quite different from that of the young people in the developed countries, who were in search of an ideal. He recalled what had recently been said about burden-sharing, namely, that if the developed countries saved one per cent of their GNP, they could feed millions of people. He suggested that the Special Rapporteur should now try to identify the measures that should be imposed on the industrialized countries in order to remedy the situation of the poor countries, since they could never cope alone. Turning to the question of unemployment, he noted that the advisability of proclaiming the right to work had been debated for a long time as had the question of whether a Government could assume such a responsibility; it should be borne in mind that if that right was not recognized, unemployed youth could become dynamite and a tool of terrorism and secessionist movements.

2. With regard to women, the issue was not so much that they had no rights - in India at least, the Constitution recognized that they had equal rights with men - but rather that they were not treated as equals of men. In India, just as in the West, they occupied the highest posts. Admittedly, in the past, they had been placed on a pedestal, but that did not mean that their equality was established. The women of the new generation did not wish to be placed on a pedestal but to be treated as human beings. Legislative measures by themselves were not enough. If women and children still needed protection, it was because changes were still needed in the social system, the family, groups and customs. The Special Rapporteur should therefore address that denial of rights which did not stem from legislation but from custom and practice, even in the most advanced countries. From now on, no law might be discriminatory, but it could well be that prejudices died hard. Lastly, with respect to juvenile justice, he said that in India there were now special courts and prisons for young people.

3. Mrs. WARZAZI said that she found Mr. Mazilu's report on agenda item 17 (a) disappointing. In chapter I, the Special Rapporteur said that there had been important developments, in particular in Eastern Europe but he did not take them into account, although in that same chapter he had stated that a new approach was needed. The report was often repetitive and showed a

certain lack of objectivity. One example of that subjectivity was demonstrated in paragraph 17 (b) where Mr. Mazilu said that one of the most important rights of youth was the right to a knowledge of history. The priorities, for millions of young people, were certainly not architecture or historical monuments. The same held good for paragraph 17 (d), which referred to various amusements of which the young people of certain countries were deprived. In so doing, Mr. Mazilu showed little concern about the millions of young people who in any case could not afford such amusements and still less afford to seek refuge in narcotic drugs as did the young referred to in paragraph 17 (e). The dangers more likely to beset them were juvenile delinquency and unemployment.

4. Only in chapter V did the Special Rapporteur get on to the right track, although all the violations mentioned should be placed in the context of the different countries in order to have a clearer picture of the situation of young people in both developed and developing countries. In fact, the young could be disadvantaged even if there were no dictator or tyrant. She would be in favour of the proposal to draft a charter, provided that every young person could identify with it and see his aspirations genuinely reflected in it. She pointed out, however, that the General Assembly had already adopted a convention that applied to young people, because the population targeted went up to the age of 16.

5. On the subject of prevention of discrimination and protection of women, the Sub-Commission had available only the report of the Commission on the Status of Women and of the Committee on the Elimination of Discrimination Against Women. She would have liked additional information from the Department of Public Information, for example, both on women as a whole and on refugee women. The lack of information on the subject led her to question the real usefulness of the Sub-Commission's work in that area. Was it not duplicating the work of the Commission on the Status of Women and of the Committee of Experts?

6. Of course, much work was still needed, because despite all the conferences, conventions and other decades, the situation of women was not improving. Women nowadays were considered merely in terms of productivity and of economic profitability; it had even been suggested that, in order to overcome the labour shortage predicted for the year 2000, the rate of activity of women should be increased. On the subject of inequality, the fact still remained that women, who accounted for a high proportion of the labour force and who performed much of the work, were still victims in all areas: wages, social benefits, professional advancement, nutrition, literacy, participation in the taking of decisions concerning the life of the country etc. Even the Secretariats of the United Nations and the specialized agencies hesitated to recruit women to high-level posts, using the reluctance of Governments as a pretext. In fact, the real obstacle to the advancement of women was that women were always considered as minors to be protected or in terms of their earning ability. The international community should finally make up its mind that equality between the sexes was a human rights problem rather than a strictly social one.

7. Mr. DESPOUY encouraged Mr. Mazilu to work at his final report and said, with respect to the item under consideration, that the interest being shown in human rights was one of the salient features of developments in recent years. As a consultant, he had taken part in the setting up of governmental bodies to promote and defend human rights in various Latin American countries. Those were not isolated occurrences, but represented a real trend not only in Latin America but also in Africa. In Morocco for example, members of the opposition were taking part in the work of a recently established advisory committee. A context which made for dialogue was thus being created.

8. At the national level, the number of private entities was rapidly increasing and assuming responsibility for disseminating information and educating the public. At a joint meeting with the Committee on the Elimination of Racial Discrimination, that trend had also been noted and the question raised of discussing it in a working paper and supporting those national initiatives.

9. He also referred to the marked trend towards dialogue to which the United Nations was contributing. One such example was the United Nations Observer Mission in El Salvador (ONUSAL), in Cambodia and elsewhere. In his view, it was extremely important to give some thought to the form and operation of advisory services which had been created through the impetus given by Mr. Martenson and which had a key role to play.

10. Mr. AL-KHASAWNEH said that Mr. Mazilu had obviously written his report in difficult conditions. The report was not only too repetitive but also contained too much superfluous information. Paragraphs 18 to 24, for example, repeated the idea that the young people had been astonished by the fact that entire nations had been deprived for so long of the freedom of thought or were reduced to a state of slavery and they were not the only instances. It was also unfortunate that Mr. Mazilu had not given the sources for his figures. In paragraph 79, it was stated that 180 million young people were confronted with extraordinary obstacles in the exercise of their right to leave and to return to their country; such a figure deserved to be substantiated. Furthermore, it should not be forgotten that there was a convention on the Rights of the Child or that young people, who were no longer children were not particularly vulnerable and were going through a short-lived stage in their lives. It was, of course, possible to examine their problems but without, in doing so, unduly enlarging the scope of the studies.

11. Mr. EIDE congratulated Mr. Mazilu on the courageous determination which he had displayed but also regretted the weaknesses of the first part of his report. Of the problems confronting the young people, the problem of unemployment deserved special attention and should be dealt with in conjunction with other agencies such as the ILO or the Human Rights Committee.

12. But there was a more dramatic and complex development at that very time, namely, the situation of those young people who had learned about tolerance, democracy and respect for human rights and who were being asked as members of the armed forces to use violence against their own people. That was a deeply immoral requirement and the risks of schizophrenia were enormous. Those young people were merely tools with which to conquer power and seize control of the society, in flagrant contradiction of the principles of democracy. The

problem was closely akin to that of conscientious objection which itself went beyond the mere refusal to perform military service. It forced one to question how far a young person could be compelled to go and at the same time be asked to adhere to certain moral values such as respect for human rights. It was a problem that needed to be examined more than ever.

13. Mrs. BAUTISTA said that she agreed with Mrs. Warzazi that, of the United Nations bodies, the Sub-Commission was not the most suitable to deal with the question of women. As far as the young people were concerned, she observed that their fundamental rights were violated both in democratic countries and in countries under dictatorships. Mr. Mazilu's report was very ambitious. To its credit, it reported violations of the rights of young people wherever they occurred and explained the reasons. She proposed that the Sub-Commission should adopt a resolution which identified more clearly the areas that it wished Mr. Mazilu to examine.

14. Mr. MAXIM said that he thought Mr. Mazilu's report was very eloquent on the subject of the violations of the rights of the young, but felt that it should have concentrated on more acute problems and should have addressed the situation of the young people in different parts of the world because that situation could vary considerably from one region to another.

15. Mr. ILKAHANAF observed that there were positive elements in Mr. Mazilu's report and noted in particular the importance of paragraph 66. However, he would have wished the report to discuss the physical and mental suffering inflicted on young people in situations of armed conflict and the question of young people and underdevelopment.

16. Mr. DILLOWAY (International Humanist and Ethical Union) said that he saw a paradox in the fact that the number of accessions to international human rights instruments had increased substantially over the last 42 years while at the same time the human rights situation itself was deteriorating and the problems were on the rise. Widespread intolerance, sexual discrimination, injustice and corruption, and the abuse of power worldwide were responsible for that situation. With reference to Mr. Mazilu's report on human rights and youth (E/CN.4/Sub.2/1991/42), he observed that societies were failing to channel constructively the energy of the young people who were growing up in a world where everything was commercialized and where the family had abdicated its responsibility. Economic systems where competition was king, political systems where confrontation was the order of the day: everything, nowadays, drove people to be aggressive and to look for an enemy. That trait was evident in arms export policies: everyone was seeking to ensure "a strong defence" even if there was no enemy. In support of his argument, he cited the case of one country where the crimes recorded by the police had increased at the rate of 6 per cent per year for at least 60 years, in other words, three times more than the economic growth rate. While incomes were increasing, the social climate was steadily deteriorating.

17. In such a context, it was hardly surprising that there was renewed interest in the question of values. From the beginning, the international codes of rights and obligations had been based on a set of values and on a very special concept of the human being. On the other hand, those values had never been clearly spelled out. In that ill-defined context, therefore, the

International Humanist and Ethical Union proposed the adoption of a declaration of universal human values to encourage a better understanding of the international human rights instruments. That idea was perfectly consistent with the forthcoming World Conference on Human Rights. The draft declaration was contained in document E/CN.4/Sub.2/1991/NGO/1. In that connection, he draw attention to a typing error in the English version of the title of the draft declaration which should read Human Values instead of human value.

18. Ms. FETTER (Friends World Committee for Constulation) (Quakers) said that she welcomed Mr. Mazilu's progress report (E/CN.4/Sub.2/1991/42), and in particular the stress laid by the author on the need to take into account the rights of the young everywhere in the world when dealing with human rights. She drew attention to the plight of children in situations of armed conflict. On several occasions, the Sub-Commission had expressed concern about the participation of young people in hostilities. Ms. Daes, in particular, had drawn attention to the fact that young people were being recruited into the armed forces and the year before Mr. Joinet had urged Mr. Mazilu to include in his final report the question of the participation of the young people in armed conflict, whether national or international.

19. Turning to the question of the right to conscientious objection, she said that it was a right which was expressly recognized by the Commission on Human Rights, in particular in its resolution 1989/59. Although many States had made progress on the question, many others refused to respect that right and hundreds of young people were imprisoned because of their position of principle against killing. Even more disturbing was the practice of abducting young people to make soldiers of them, although some of them were not old enough to perform their military service. She asked Mr. Mazilu to pay special attention to the involvement of young people in armed conflicts and to include the right to conscientious objection in the charter of the rights and freedoms of young people.

20. Ms. WU (Women's International League for Peace and Freedom) said that she wished to draw the attention of the Sub-Commission to the fate of Iranian women, who were being made to pay a very high price for the exercise of their fundamental rights. In support of her remarks, she referred to the dress code under which women were obliged to cover themselves completely in public, leaving only their hands and faces uncovered and she pointed out that offenders were liable to a penalty of 74 lashes, a fine, or even a prison term. It would seem that the idea was to protect men from the temptations of the flesh. That might appear insignificant compared with other more sinister methods of repression, but the requirement to wear the hijab was one of the manifestations of the subjugation of women. It would even seem that Iranian women were liable to the death penalty for infringing the dress code. The claim that the laws concerning civil rights had been relaxed was therefore open to question.

21. There was an even more serious situation from the point of view of women's and children's rights; article 2252 of the canon law set the age of puberty for women at nine lunar years, in other words at eight years and nine months, whereas boys became adults at 15. As a result of that amendment to the Islamic Penal Code, which went by the name of "Khomeini Treaty",

nine-year-old girls were subjected to the same restrictions and the same penalties as adult women. Furthermore, a father or paternal grandfather had the right to sell his daughter or grandaughter to any man he wished, in order to obtain the dowry (Shir Baha). She did not know how widespread the practice was, but eye-witnesses had reported the arrest, imprisonment and sentencing of young girls to forced labour as well as psychological and physical ill-treatment in prison.

22. Her organization drew the attention of the United Nations to that matter and urged it to bring all the necessary pressure to bear on the Iranian Government. The Commission on Human Rights' Special Representative on the situation of human rights in the Islamic Republic of Iran should continue his assignment until all the laws and customs depriving women of their fundamental rights had been abolished.

23. Mrs. SEIGEL (International Council of Jewish Women) said that she wished to inform the members of the Sub-Commission about the activities of non-government organizations in Israel that were endeavouring to protect and promote human rights in situations of armed conflict. Thus, the Association for Civil Rights in Israel (ACRI), established in 1972, was a non-partisan and non-political association devloted to the protection of human rights and civil liberties in Israel and the territories under Israeli jurisdiction. The Association was affiliated to the International League for Human Rights and the International Federation of Human Rights. The Association concerned itself in particular wth legal proceedings in cases of the unlawful use of force, collective sentencing, prison conditions, cases of denial of justice and it also assumed responsibility for appeals to the Supreme Court. It was authorized to inspect army detention centres and prisons. It drafted bills and constituted a pressure group, it gave legal advice, drafted education projects, organized courses for teachers, the police and border protection personnel and prepared teaching materials.

24. The Sovlanut organization - or tolerance organization - was formed in 1982 with the aim of stemming the violence in Israeli society which was very heterogenous. Sovlanut worked toghether with the police in order to help the officers ensure respect for civil rights in their units. It also did a considerable amount of work with young people organizing sporting activities and debates, to encourage tolerance among the different age groups. Sovlanut also awarded a prize every year to the journalist who had done useful work in promoting tolerance. It also organized the Moked telephone line to which individuals could report cases of mistreatment. The idea dated back to 1989, the first year of the intifada and the staff included Palestinians and Israelis. The ACRI had also been able to use the information gathered by that system about the unlawful confiscation of identity cards and the issue had been resolved by the adoption of new laws.

25. Another organization, the B'Tzelem was the Israeli Information Centre for Human Rights in the Occupied Territories. It took the Universal Declaration of Human Rights as its model and its name meant "in the image of God". Its purpose was to make decision-makers as well as the public at large aware of all aspects of human rights violations in the occupied territories. It published a monthly report on the situation in the territories, sometimes devoted to a specific topic.

26. Those were only a few examples of Israeli organizations, which were aware that democracy was not something established once and for all, and anxious to ensure respect for human rights in Israel. She gave the names, which she did not claim to be an exhaustive listing of other organizations active in the field of protecting civil rights, including associations of women who were striving for the equal civil and religious rights as well as for coexistence, the Association of 40 for the recognition of Arab villages, the National Child Council, the Association for the Protection of Homosexual Rights, the Association for the Defence of Bedouins' Rights, the Rabbinical Association for the Protection of Human Rights, which included several currents of Judaism that were concerned about the situation in the territories.

27. Ms. GUZMAN (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that it was unfortunate that the report (E/CN.4/Sub.2/1991/42) discussed the situation of young people in only one part of the world. She therefore wished to point out the difficulties experienced by other young people. First of all, in Latin America, although there were democratic and constitutional Governments, serious violations of the rights of young people continued to occur. There was, for example, the case of Guatemala where unknown persons had shot at a vehicle transporting five young people, seriously wounding them. In another incident, the bodies of two minors aged 13 and 17 had been found in San Andrés Villaseca bearing the marks of torture and strangulation. On 16 March, the brothers Manuel and Pablo Ajiataj Chivalan, aged 8 and 19 had been murdered. They were members of Runujel Junam ethnic communities. On 16 March, Luis and Adolfo René Pacheco aged 24 and 25 had disappeared in San Vicente Pacaya. On 25 April 11 young people who were members of the student coordination group had been arrested for participating in a demonstration against the arrest of seven of their comrades two days earlier.

28. In Ecuador, the fate of the students Carlos Santiago and Pedro Andres Restrepo Arismendi, whose parents were Colombian, was still not known. They had disappeared on 8 January 1988 when they were 17 and 14 respectively. In the Dominican Republic, the decision taken by the Government of President Balaguer to expel all Haitians over 60 and and under 16 had led to the breakup of families and prevented young Dominicans born of Haitian parents from living in the country of their birth. With regard to the rights of children, it should be recalled that in Latin America (Brazil, Colombia, Guatemala, Peru, Haiti, Bolivia and other countries), in some cases, no better solution to the problem of the street children had been found than simply to kill them. The situation of the children who had disappeared at the time of the dictatorships in Argentina and Uruguay was still unresolved. In the meanwhile, those guilty of serious crimes had been pardoned. She highlighted the case of Simon, who had been arrested with his mother in Buenos Aires on 13 July 1976, when he was 20 days old. At the present time, he was 15 years old and he was being denied the right to know who his biological parents were. If the laws in force were applied, that tragedy could be ended, especially since the Uruguayan Government by Act No. 16,137 had ratified the Convention on the Rights of the Child, which recognized that children had the right to an identity.

29. In a completely different area, Mr. Mazilu's report claimed that progress had been made in respect of the right to conscientious objection but it was still true that military service was compulsory in most countries and more often than not it was the young peasants and the young people from the disadvantaged communities who were recruited into the army. Another example of the violations of the rights of young people was to be found in Turkish Kurdistan where repression had been intensified since the enactment of the anti-terrorist law of 12 April. Contrary to official statements, young people were being denied the right to be taught in their mother tongue. Similarly, the publication of books and magazines in the Kurdish languages was forbidden. Military service was compulsory in Turkey and the young Kurds from the age of 20 were required to serve in the armed forces for two years; they were often sent to the front to fight against the Kurdish resistance movement, in other words, against their own people. Those were just a few examples of violations committed by States which failed to respect their international commitments were guilty, and did so, to the detriment of the future of mankind.

30. Ms. SCHREIBER (International Abolitionist Federation), said that she wished to supply additional information to that contained in Mr. Mazilu's report on human rights and youth and referred to an article which had appeared in the Belgian daily paper Le Soir, during the World Summit for Children held in New York, entitled "At what age do human rights begin?". In the article, Amnesty International reported on the activities of death squads in Brazil, spoke of the Kurdish children who had been gassed and of the Romanian children cooped up by the Ceausescu regime, but also of the gradual restoration of the death penalty for minors in the United States.

31. In addition to those cases quoted by Amnesty International, there were many others, such as malnutrition, child desertion, ill-treatment, sexual abuse, etc. She quoted statistics from the Federal Police of Brazil according to which, in the city of Rio de Janeiro alone, 294 children had been murdered in 1988, 445 in 1989, and 492 in 1990, in other words, an average of 1.34 a day. In the city of Sao Paulo, the average figure was 2.51 children a day. There was widespread violence, rape, children's eyes had been gouged out, etc. The perpetrators of those crimes, who had dubbed themselves "dispensers of justice", were seldom prosecuted and even less often sentenced. There were other recent press reports of atrocities such as the existence of children's cemeteries in a gold mine in Peru. Some of the bodies discovered were reportedly those of children who had been shot to death or who had apparently died of malnutrition or illness. All of them bore marks of torture.

32. At its most recent congress in 1990, the International Abolitionist Federation had urgently appealed to all States to study their responsibility in the commission of crimes against children, crimes which, because of their magnitude and seriousness, could be described as crimes of genocide, as defined in article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide, which had come into effect on 12 January 1951. The concept of crime against humanity was being evoked increasingly nowadays and in that connection, it should be pointed out that the International Law Commission was currently working on a draft code of crimes against the peace and security of mankind and was examining, inter alia, the question of establishing an international criminal court to try the perpetrators of such crimes. It was

important to note that articles 19, 20, 21, 22 and 26 of that draft convention, which had been provisionally adopted by the Commission, condemned genocide, apartheid, systematic and large-scale violations of human rights, war crimes of exceptional gravity, deliberate damage to the environment; it might be appropriate to include crimes against children in that list.

33. In conclusion, her organization requested the Sub-Commission to appoint a Special Rapporteur to study the question, to look into the causes of crimes against children and, above all, to consider preventive or punitive measures to be taken to put an end to those repellent acts.

34. Mrs. BASSIDJI (International Falcon Movement) said that the principle of equality between men and women in dignity and rights had been clearly established, in the Declaration on the Elimination of All Forms of Discrimination against Women and that all the Governments which had ratified that instrument should implement it. However, the civil and penal codes of Iran contained provisions which constituted violations of the most fundamental rights of Iranian women. According to the addendum to article 102 of the Penal Code, the punishment for "improperly veiled" women was flogging (74 lashes). Thousands of women, including women belonging to religious minorities, had been convicted of that crime. In April 1991, Reuters had reported that 800 women had been arrested on those grounds within two days in Tehran. In July 1991, riots in Isfahan over attempts by the authorities to enforce that dress code had led to the arrest of 300 persons. Lastly, on 15 August 1991, the Prosecutor General, Moussavi Tabrizi, had called for the execution of improperly dressed women. All of those medieval punishments were sanctioned by religious decrees, and the atrocities committed under the guise of fair punishment for offences were widely reported both in the government and foreign press. Thus, an article in Le Figaro of 1 November 1990 had recounted how women accused of adultery had been stoned to death in the most barbarous fashion and had added that the charge of adultery was sometimes made by a husband simply because he wished to rid himself of his wife in order to marry another woman.

35. In Iranian prisons, the situation of the women detained on political grounds was even more horrible; they were systematically raped by the Revolutionary Guards before being executed, especially those who were believed to be sympathizers of the People's Mujahedin Organization of Iran. Many such cases had been described by a member of the Revolutionary Guards Corps in a book which he had published after leaving Iran.

36. As Mrs. Maryam Rajavi, Secretary-General of the People's Mujahedin Organization of Iran had said, equality between men and women should be guaranteed practically and realistically in every aspect of political, social and family life. The rights of women should be respected not only in theory but also in practice. At the present juncture, the foundations of a society in which women would be equal to men were being laid by the women who were active in the resistance movement against the medieval dictatorship that held sway in Iran. Her organization hoped that the Special Rapporteur would pay special attention to the situation of women in Iran and that the Sub-Commission would adopt a resolution condemning the gross violation of human rights in that country.

37. Ms. PONGPAEW (Disabled Peoples' International) said that in the Asian and Pacific region, except perhaps in developed countries like Japan, Korea, Australia and New Zealand, disabled people lived in even more difficult conditions than others. The lot of disabled children was particularly desperate because no consideration was given to their fundamental rights, such as the right to life, the right to medical care and the right to education. In some countries, disabled infants, especially female infants, were killed by their parents or even by doctors. In rural areas, they were left without medical care; sometimes they were even killed and their organs sold or they were disabled by having their arms and legs broken to force them to beg. Access to education was also denied them because there were no special schools to cater for their special needs. Girls especially were subject to that kind of discrimination. In the area of health, the right of disabled children to consent to or to reject medical treatment was often violated; deaf and mentally disabled girls were often sterilized without their knowledge.

38. The Disabled Peoples' International urged Governments of Member States and NGOs to give greater attention to the situation of disabled children and youth and to make sure that they were able to exercise their rights in the same way as other children. She asked the Chairman's permission to give the floor to another representative of the same organization who would speak on the subject of disabled women.

39. Ms. DEGENER (Disabled Peoples' International) said that it was unfortunate that the special situation of disabled women had not been given due attention during the United Nations Decade of Disabled Persons. She therefore welcomed the fact that Mr. Despouy had raised the question in paragraphs 140 to 144 of his report on human rights and disability (E/CN.4/Sub.2/1991/31). In fact, women who were disabled had very little access to health and education services, vocational training and employment and they suffered twofold discrimination as women and as disabled persons and sometimes even triple discrimination if they were members of a cultural minority.

40. In addition, disabled women were subjected to acts of violence and sexual harassment; that was particularly difficult to establish because there were no statistics on the subject. Consequently, deaf or mentally disabled women were frequently raped and subjected to other forms of sexual violation by members of their own families or members of the staff of the services or institutions where they were placed, not to mention the total segregation to which they were subjected in such places. In some developing countries, handicapped women were sometimes forced into prostitution to earn a living. Furthermore, there were no centres or medical or legal services which could meet their particular needs or to which they could turn when they had been sexually violated. Sterilization was often the only treatment meted out to them and that constituted another violation of the rights of women.

41. Her organization therefore urged United Nations organs to take measures to ensure that those crimes against disabled women were stopped and that resources were allocated to carry out studies on the subject.

42. Mr. GAMA (Observer for Brazil) said that the Government of Brazil shared the concerns expressed by certain NGOs at the violence against children and adolescents in Brazil. The killing of children and adolescents was a cruel and intolerable practice which had been considerably aggravated in recent years by the deterioration of the economic conditions of Brazilian society. However it could also be explained by the fact that many citizens were unaware of their fundamental rights.

43. Since his inauguration in March 1990, President Collor had given top priority to the adoption of practical measures to ensure adequate protection for children against violence, to improve living conditions and access to education and health care and to meet other fundamental needs of Brazilian youth. Shortly after taking office, he had established the Brazilian Centre for Children and Adolescents and charged it with implementing the provisions of the 1988 Constitution regarding protection of the rights of children, as well as a ministry of the child, which was responsible for implementing programmes and activities to promote and protect the rights of children and adolescents within the framework of national policies. Furthermore, in July 1990, President Collor had signed Act No. 8069 promulgating the Statute of the child and the adolescent, which incorporated into Brazilian legislation the principles of the international Convention on the Rights of the Child and other legal instruments adopted by the United Nations. Brazil had ratified the Convention on the Rights of the Child in September 1990 and on the same date had concluded an agreement with UNICEF to coordinate measures for protecting the rights of young people in particularly difficult situations. Lastly, in December 1990, the National Council for the Defence of Human Rights, which had recently been reorganized by the Government in order to enhance its effectiveness, had set up a Federal Commission in which governmental and non-governmental organizations had equal representation. The Commission had adopted several recommendations with a view to drawing up a national plan for the prevention of violence against children and for the prosecution and punishment of persons guilty of such crimes. The plan would be implemented by the Ministry of Justice and the Brazilian Centre for Children and Adolescents and monitored by the non-governmental members of the Federal Commission and UNICEF.

44. The efforts by the Brazilian Government to stop the practice of violence against children and adolescents were however, partially hampered by the lack of resources largely as a result of the austerity measures that had been adopted to boost the Brazilian economy. For that reason, effective international cooperation in different fields, including the financial one, and technical assistance to the national institutions responsible for executing the programmes planned would usefully complement and reinforce the efforts made by Brazil to cope with those serious problems.

45. Lastly, he said that he regretted that Habitat International Coalition, in document E/CN.4/Sub.2/1991/NGO/9, had sought to link the problem of violence against children in Brazil with the preparations under way for the United Nations Conference on Environment and Development which was to be held in Rio. The Government of Brazil was prepared to discuss any reliable information on the phenomenon of violence against children, but it could not accept allegations that were not substantiated by reliable sources, especially when they seemed to imply that those acts were part of a deliberate policy on the part of the Government.

46. Mrs. GALVIS (Observer for Colombia) said that although children, young people and women made up the largest minorities of the planet, they received only scant attention within the framework of the system for the protection of the rights of minorities as a whole. The situation of children had been raised in the Working Group on Contemporary Forms of Slavery, and in the Working Group on Detention where the situation of minors who were detained had been raised, in the Sub-Commission and in the Commission on Human Rights. The lot of women was virtually ignored.

47. The rights of children and youth constituted perhaps one of the most serious concerns of various United Nations bodies. Although children formed the subject of a Convention that had recently entered into force and a World Summit for Children had been organized in order to persuade States to grant priority to the problems of children in their social, economic and political strategies, there was still no international instrument dealing specifically with young people. However, the reason perhaps lay in the fact that the concept of youth was difficult to define since persons over 18 were generally considered as adults. The rights of young people up to the age of 18 would therefore be protected by the Convention on the Rights of the Child and thereafter by the various international instruments on human rights adopted by the United Nations. It was not as important to draft a new instrument as to try and give young people the necessary attention to enable them to participate fully in everything that affected them as well as in the political, economic and social life of society. Multilateral and national institutions should therefore undertake direct action to protect and ensure respect for the right to life and the right of young people to participation.

48. The same held good for women who already had more or less adequate means of protection in contemporary society, but who still suffered certain traditional forms of discrimination. Women sought recognition, in their relations with men, their family, professional relationships and in the process of participation in political life as beings who could think and act. A better dialogue needed to be established between men and women in order to build a world in which the masculine self and the feminine self would constitute a new dimension of the human being.

49. The Sub-Commission should therefore give greater attention to the situation of children and young people and also to the status of women by strengthening, for example, its contacts with the Commission on the Status of Women and the Committee on the Elimination of Discrimination against Women so that it would be better able to analyse their situation and resolve their problems.

50. Mr. Heller took the Chair.

51. Mrs. RUESTA de FURTER (Observer for Venezuela) said, first of all, that she was in full agreement with the view expressed by the Observer for Colombia regarding the attention given to young people and children. She commended the Sub-Commission for including in its agenda the item on the prevention of discrimination and protection of children in the context of the promotion of human rights. If UNESCO or other governmental and non-governmental organizations had not already done so, it would be useful to conduct a study on how children and youth could contribute to the promoton of human rights. It

would also be to analyse the various infringements of human rights committed against children and young people throughout the world in the light of the provisions of the International Covenants on Human Rights and of the Convention on the Rights of the Child in particular. Her delegation believed that such a study would help to put an end to those violations.

52. The Sub-Commission had already shown its interest in all those issues through the Working Group on Contemporary Forms of Slavery or the Working Group on Detention, whose agenda included the question on the situation of juveniles deprived of their liberty for breaking the law; her delegation could only regret the fact that the Working Group had not been able to consider that question because of time constraints. Since the Sub-Commission was the only United Nations body to have drawn the attention of the international community in its resolution 1989/41, to the weaknesses in articles 21 and 38 of the Convention on the Rights of the Child which dealt, respectively, with the problem of international adoption and the recruitment of children into armed forces. It would be logical that it should ensure that none of the questions concerning children and young people was neglected and that, in particular, the question of the detention of juveniles should be given equal attention and duly considered by the Working Group on Detention. She hoped that that would be done.

53. Mr. APUNTE (Observer for Ecuador), speaking in exercise of the right of reply, said that he wanted to make it quite clear to the representative of the Latin American Federation of Associations of Relatives of Disappeared Persons that his Government was endeavouring to clarify the case of the disappearance of the Restrepo children. In 1990, a high-level commission had been set up in Ecuador to deal with problems of kind and any violation of human rights was investigated immediately.

54. Mr. MAZILU, Special Rapporteur, said that he wished first of all to thank those members of the Sub-Commission who had supported his report. Mr. Sachar for example, had rightly stressed the problem of hunger among youth and he would elaborate further the part of his report dealing with that issue and that the development of agriculture and the promotion of cooperation between developed and developing countries could be an answer. The comments of Ms. Warzazi and other experts, who thought it was necessary to make a distinction between general and specific problems were also very relevant. Mr. Eide and Mr. Ilkahanaf had been right to raise the problem of underdevelopment and unemployment among young people as well as the use of young people in armed conflicts and he would also develop that point because there was in fact an urgent need for everyone today to be able to exercise his right to refuse to kill.

55. Regarding the drafting of the report, he said that he would endeavour to give the next version a more neutral tone. He had also taken note that several non-governmental organizations thought that greater emphasis should be placed on certain problems. He did not, however, agree with the NGO which considered that too much emphasis had been placed on the suffering of youth because despite the measures taken to redress their situation, young people continued to be threatened. He would also expand on the question of the use of young people for pornographic purposes.

56. He would require additional financial resources, in order to make the necessary contacts with youth organizations when preparing the next version of the report and the draft charter of th rights and freedoms of youth. He was also duty-bound to point out that some Governments did not wish the true situation in their country regarding the human rights of young people to be brought to light. He was the first to be aware that human rights activists were sometimes placed in difficult and even dangerous situations but he for one preferred death to dishonour.

57. The CHAIRMAN said that the Sub-Commission had completed its consideration of agenda item 17.

HUMAN RIGHTS AND DISABILITY (agenda item 12) (continued) (E/CN.4/Sub.2/1991/31)

58. Mr. TIAN Jin paid a tribute to Mr. Despouy for his valuable report on human rights and disability, and thanked the non-governmental organizations representing the disabled which had addressed the Sub-Commission so movingly a few days earlier. Like the Special Rapporteur, one must hope that Governments would recognize not only the needs of the disabled, but also their rights and the contribution that they could make to society.

59. China had very many disabled persons and although it was a developing country with limited resources, the authorities saw to the well-being of those persons. At the international meeting on the role and functions of the disabled held in Beijing the previous autumn, the need to promote their rehabilitation and encourage their participation in society had been emphasized. After that meeting, in December 1990, the Chinese Government had adopted a law giving the disabled the same rights as other people. The law touched on all the areas, education, work, culture, recreation etc., and also made provision for special State aid to remove all the external obstacles encountered by the disabled.

60. However, much work still had to be done at the national and international levels, in order to assist them. The United Nations should encourage the national committees, which could play a significant role, to meet at the regional or world levels. In conclusion, he said that he hoped that Mr. Despouy's report would be very widely disseminated.

61. Mr. FLINTERMAN thought, like Mr. Tian Jin, that on 16 August the Sub-Commission had witnessed a significant and moving event, when the non-governmental organizations representing the disabled had spoken on Mr. Despouy's report. Those NGOs had demonstrated one of the key points of the report, namely that the disabled were experts on disability. The establishment of NGOs representing disabled persons should therefore be encouraged and their activities assisted, as the Special Rapporteur had advocated.

62. Mr. Despouy had submitted an innovative and extremely informative report. He had given a clear analysis of the many problems posed and made creative recommendations. However, the document showed above all that the Special Rapporteur was deeply and genuinely concerned about the question of human rights and disability, which presented a challenge not only to the disabled persons themselves but to the community at large.

63. Turning more specifically to the legislative framework of the question of human rights and disability, the Special Rapporteur showed that the rights of the disabled were set forth mainly in non-treaty instruments, such as the Declaration on the Rights of Mentally Retarded Persons of 1971 and the Declaration on the Rights of Disabled Persons of 1975, and in other instruments in the process of being drawn up such as the draft principles for the protection of persons with mental illness. But were there still gaps in that legislation? Should additional provisions be enacted in instruments of the same type or would it be preferable to draft a new binding instrument based on the acknowledgement of the fact that all disabled persons should be able to exercise all the rights set forth in the International Bill of Human Rights? He would like to know the Special Rapporteur's position in that regard and the role he thought the Sub-Commission could play.

64. Furthermore, the idea of giving the Committee on Economic, Social and Cultural Rights the responsibility for monitoring respect for the rights of the disabled was sound, especially from the legal point of view. He hoped that the recommendation would be implemented speedily so that a single focal point could be created for disabled persons within the United Nations system. If that recommendation was not adopted by the parent bodies of the Sub-Commission, then the Commission on Human Rights might consider appointing a special rapporteur to follow up on the matter. Lastly, Mr. Despouy's report certainly deserved to be presented as a United Nations publication and given wide distribution.

65. Mrs. KSENTINI said that Mr. Despouy had submitted a very comprehensive report which took stock of international standards relating to the disabled and raised the question of the deep-seated causes of disability. He had done well to make a distinction between factors causing disability and human rights violations which produced disability. The problem of disability and underdevelopment, and the vicious circle which ensued, had also been carefully analysed.

66. He had also been right to point to the possible role of the Committee on Economic, Social and Cultural Rights, but thought might also be given to approaching the Committee on the Rights of the Child because prevention, which Mr. Despouy had rightly stressed, applied particularly to children. Neither should the possible contribution of the Committee on the Elimination of Discrimination Against Women be overlooked. In its most recent report, that Committee had in fact recommended that the States parties to the Convention on the Elimination of All Forms of Discrimination Against Women should include in their reports information on disabled women; the Committee had endorsed the World Programme of Action concerning Disabled Persons. However, as the Special Rapporteur had pointed out, the information published on the specific subject of women and disability was still very inadequate. Finally, she supported the idea of circulating Mr. Despouy's report widely as a United Nations publication.

67. Mrs. BAUTISTA said that Mr. Despouy had submitted a very significant report on persons whose disability was sometimes a consequence of human rights violations. A tribute was also due to the non-governmental organizations, which had enabled disabled persons to address the Sub-Commission and to show their expert knowledge of the subject of disability.

68. Many problems still plagued the disabled. Far from seeing them as a useful resource and as human beings of worth and dignity, more often than not they were regarded as a burden on their families and on the community. The tendency therefore was to marginalize them and in particular to prevent them from having access to education. Fortunately, the situation was changing and, today, the usefulness of disabled persons, their right to education and training and their right to play a part in the society were being recognized. It was also acknowledged that if they had the same rights as others under the law, in addition they were entitled to special protection and special physical installations, for example in order to exercise their right to freedom of movement. Mr. Despouy's report clearly indicated his concern about the issue and certainly deserved to be published, as Mr. Flinterman had suggested. Lastly, she said that she hoped that the question of the rights of disabled persons would be included on the agenda of the next session of the Sub-Commission.

69. Ms. DAES said that through his study, the Special Rapporteur had made a valuable contribution to the protection of the 500 million disabled persons around the world. He had used a modern methodology of summing up at the end of each chapter the measures contemplated which facilitated the reading of the document. The report would be helpful to all those who were concerned about the problems of human rights and disability and in particular Governments desirous of adopting modern laws to assist the disabled.

70. In fulfilment of the mandate given to him by the Sub-Commission in resolution 1984/20 and the relevant resolutions of the Commission on Human Rights and the Economic and Social Council, the Special Rapporteur had studied all forms of discrimination against the disabled. Nevertheless, the fact should be stressed that those persons should be protected, in conformity with the principle of non-discrimination, but that they should also legitimately enjoy positive discrimination. The Special Rapporteur had done well to emphasize the problem of the mentally ill who were institutionalized and the tragic situation which prevailed in certain psychiatric institutions. She hoped that by so doing he would contribute to advance institutionalization policies and practices. It was also worthwhile to point out, as he had done, that the Sub-Commission had already contributed greatly to the protection of the rights of the disabled. Its work had formed the basis for the draft principles for the protection of persons with mental illness which was before the General Assembly.

71. The human rights legal instruments reviewed in chapter I of the report would not only help Governments to adopt a modern legislation on behalf of the disabled but would also help the disabled themselves to defend their rights. The comments in paragraph 153 of the report were, however, deeply disturbing and the report of the Working Group on Indigenous Populations had also highlighted the fact that those populations were often the victims of a twofold discrimination.

72. Although some measures had already been adopted at the national and international levels to assist disabled persons there was still a great deal of work to be done. The Sub-Commission should consider drafting a binding instrument on that subject, as Mr. Flinterman had suggested. It was also

important to continue to educate and mobilize public opinion, in order to convince the public that the protection of the rights of disabled persons was of vital importance, particularly because those persons could make a useful contribution to the development of their countries. In conclusion, she supported all the general and specific proposals made by the Special Rapporteur in paragraphs 271 to 284 of his report. She also proposed that the Sub-Commission should adopt a resolution recommending that the Commission on Human Rights should have Mr. Despouy's report published in all the official United Nations languages and ensure that it was widely disseminated.